



# Marriage Act 1949

1949 CHAPTER 76 12 13 and 14 Geo 6

## PART II

MARRIAGE ACCORDING TO RITES OF THE CHURCH OF ENGLAND

### *Preliminary*

#### **5 Methods of authorising marriages.**

[<sup>F1</sup>(1)] A marriage according to the rites of the Church of England may be solemnized—

- (a) after the publication of banns of matrimony;
- (b) on the authority of a special licence of marriage granted by the Archbishop of Canterbury or any other person by virtue of the <sup>M1</sup>Ecclesiastical Licences Act, 1533 (in this Act referred to as a “special licence”);
- (c) on the authority of a licence of marriage (other than a special licence) granted by an ecclesiastical authority having power to grant such a licence (in this Act referred to as a “common licence”); or
- (d) on the authority of [<sup>F2</sup>a marriage schedule] under Part III of this Act.

[<sup>F3</sup> Subsection (1)(a)] of this section shall not apply in relation to the solemnization of [<sup>F4</sup>(2) any marriage mentioned in subsection (2) of section 1 of this Act.]

[<sup>F5</sup>(3) In a case where one or both of the persons whose marriage is to be solemnized is not a relevant national—

- (a) subsection (1)(a) shall not apply unless the banns are published in accordance with section 14 (whether or not the banns are also published otherwise);
- (b) subsection (1)(c) shall not apply.]

#### **Textual Amendments**

- F1** S. 5(1): s. 5 renumbered as s. 5(1) (2.3.2015) by [Immigration Act 2014 \(c. 22\)](#), **ss. 57(2)(a)**, 75(3); S.I. 2015/371, **art. 2(2)** (with **art. 5**)

*Changes to legislation: There are currently no known outstanding effects for the Marriage Act 1949, Cross Heading: Preliminary. (See end of Document for details)*

- F2** Words in s. 5(1)(d) substituted (4.5.2021) by The Registration of Marriages Regulations 2021 (S.I. 2021/411), reg. 1(2), **Sch. 1 para. 2** (with Sch. 2)
- F3** Words added by Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16, SIF 49:1), s. 1(4)(6), **Sch. 1 para. 3**
- F4** Words in s. 5(2) substituted (2.3.2015) by Immigration Act 2014 (c. 22), **ss. 57(2)(b)**, 75(3); S.I. 2015/371, art. 2(2) (with art. 5)
- F5** S. 5(3) inserted (2.3.2015) by Immigration Act 2014 (c. 22), **ss. 57(2)(c)**, 75(3); S.I. 2015/371, art. 2(2) (with art. 5)

**Modifications etc. (not altering text)**

- C1** S. 5(3)(a) excluded (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), reg. 1(2), **Sch. 5 para. 3**
- C2** S. 5(3)(b) excluded (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), reg. 1(2), **Sch. 5 para. 4**

**Marginal Citations**

- M1** 1533 c. 21.

**[<sup>F6</sup>5A Marriages between certain persons related by affinity.**

No clergyman shall be obliged—

- (a) to solemnize a marriage which, apart from the Marriage (Prohibited Degrees of Relationship) Act 1986 [<sup>F7</sup>or the Marriage Act 1949 (Remedial) Order 2007], would have been void by reason of the relationship of the persons to be married; or
- (b) to permit such a marriage to be solemnized in the church or chapel of which he is the minister.]

**Textual Amendments**

- F6** S. 5A inserted by Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16, SIF 49:1), **s. 3**
- F7** Words in s. 5A inserted (1.3.2007) by The Marriage Act 1949 (Remedial) Order 2007 (S.I. 2007/438), arts. 1(1), **2(b)** (with art. 1(2))

**[<sup>F8</sup>5B Marriages involving person of acquired gender**

- (1) A clergyman is not obliged to solemnise the marriage of a person if the clergyman reasonably believes that the person's gender has become the acquired gender under the Gender Recognition Act 2004.
- (2) A clerk in Holy Orders of the Church in Wales is not obliged to permit the marriage of a person to be solemnised in the church or chapel of which the clerk is the minister if the clerk reasonably believes that the person's gender has become the acquired gender under that Act.]

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**Textual Amendments**

**F8** S. 5B inserted (4.4.2005) by [Gender Recognition Act 2004 \(c. 7\)](#), s. 26, **Sch. 4 para. 3**; S.I. 2005/54, art. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Marriage Act 1949, Cross Heading:  
Preliminary.